IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

F.A.O. No. 3040 of 2007 (O&M)

Date of Decision : 20.9.2007

Manju & Ors.

.....Appellants

Versus

Sanjay & Ors.

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : Mr. Ajit Atri, Advocate
for the appellants.

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VINOD K. SHARMA, J. (ORAL)

This is claimants' appeal against the award passed by the learned Motor Accident Claims Tribunal, Karnal allowing the petition moved by the claimants under Section 166 of the Motor Vehicles Act.

The claimants had filed a claim petition claiming compensation on account of death of Lokesh Kumar, who was stated to be going on a motor cycle when he met with an accident with truck No. HR 38J-6035. The widow as well as the parents of the deceased claimed that he was doing the work of dairy farming and cultivating the land and earning Rs. 20,000/- (Rs. twenty thousand only) per month and thus a sum of Rs. 25,00,000/- (Rs. twenty five lacs only) was claimed as compensation.

The claim was contested by respondents No.1 & 2. Besides taking preliminary objections, on merits, accident in question was denied. By way of separate written statement respondent No.3, also denied the accident.

The learned Tribunal held that the accident had been caused due to rash and negligent driving of truck No.HR 38J-6035 by respondent No.1, which resulted in death of Lokesh Kumar. However, keeping in view the fact that only oral evidence was led to prove the income of the deceased, the learned Tribunal assessed the income of the deceased as Rs. 3000/- (Rs. three thousand only) p.m. and after applying a cut of 1/3rd dependency was calculated at Rs. 24000/- (Rs. twenty four thousand only) per year. However, keeping in view the age of the deceased, the learned Tribunal applied multiplier of 18, though, respondent had opposed the said multiplier and prayed that it should be 13. The learned Tribunal awarded a compensation of Rs. 4,32,000/- (Rs. four lac and thirty two thousand only). Besides this an amount of Rs. 20,000/- (Rs. twenty thousand only) was granted towards funeral expenses, transportation of dead body etc. Thus, in total the claimants appellants were awarded an amount of Rs. 4,52,000/- (Rs. four lac fifty two thousand only).

The learned counsel for the appellants challenged the said award only on the question of compensation. It has been contended by the learned counsel for the appellants that the amount awarded is on the lower side as the income of the deceased as Rs.3000/- (Rs. three thousand only) p.m. assessed by the learned Tribunal is contrary to the evidence brought on record.

However, I find no force in this contention. Admittedly, no documentary evidence in proof of income was produced and keeping in view the fact that only oral evidence was led to prove the income, the learned Tribunal rightly assessed the income @ Rs. 3000/- (Rs. three thousand only) per month. The assessment, therefore, cannot be said to be on the lower side. The multiplier of 18 has also been rightly applied and keeping in view the age of the deceased, Rs. 20,000/- (Rs. twenty thousand only) granted for expenses towards funeral expenses, transportation of dead body etc. also includes compensation towards loss of consortium.

No ground for interference is made out.

Dismissed.

20.9.2007 **(VINOD K. SHARMA)**
'sp' **JUDGE**